

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

CISCO SYSTEMS, INC.,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 10-687-GMS
)	
MOSAID TECHNOLOGIES INC., Phillip)	
Shaer, and John Lindgren,)	REDACTED PUBLIC VERSION
)	
Defendants.)	Original Filing Date: August 30, 2013
)	Redacted Filing Date: September 6, 2013

**DEFENDANTS PHILLIP SHAER AND JOHN LINDGREN’S MOTION TO DISMISS
CISCO SYSTEM, INC.’S SECOND SUPPLEMENTAL AND AMENDED COMPLAINT**

Defendants Phillip Shaer and John Lindgren, by counsel, move this Court to dismiss both claims asserted against them (Counts 21 and 22) in Cisco Systems, Inc.’s (“Cisco”) Second Supplemental and Amended Complaint (D.I. 102) (the “complaint”) for the following reasons, which are set forth more fully in the accompanying opening brief:

1. Both claims against Messrs. Shaer and Lindgren should be dismissed under Fed. R. Civ. P. 12(b)(2) for lack of personal jurisdiction. The complaint fails to allege facts to establish that the exercise of personal jurisdiction over either individual is authorized by the Delaware long-arm statute, 10 Del. C. § 3104(c), and consistent with the Due Process Clause. The complaint also fails to allege facts to establish personal jurisdiction over Messrs. Shaer and Lindgren under Fed. R. Civ. P. 4(k)(2).

2. Cisco's RICO claim (Count 21) should be dismissed under Fed. R. Civ. P. 12(b)(6) for failure to state a claim upon which relief can be granted. The complaint does not plead the required "pattern of racketeering activity." 18 U.S.C. § 1962(c).

3. Cisco's RICO claim also should be dismissed under Rule 12(b)(6) because the complaint does not plead RICO standing, which requires factual allegations sufficient to show that Cisco was "injured in [its] business or property by reason of a violation" of the RICO statute. 18 U.S.C. § 1964(c).

4. Cisco's claim under California's unfair competition law ("UCL"), Cal. Bus. & Prof. Code § 17200 *et seq.*, should be dismissed under Rule 12(b)(6) for failure to state a claim upon which relief can be granted. The claim is barred by [REDACTED]; the complaint fails to sufficiently allege injury as a result of an unfair business practice; California law does not recognize a UCL cause of action based [REDACTED]; and, because the complaint does not allege that any defendant obtained money or property from Cisco, the UCL restitution claim fails as a matter of law.

WHEREFORE, for the reasons set forth above and in the accompanying opening brief, the Court should dismiss the complaint as to Defendants Shaer and Lindgren with prejudice and grant such further relief as this Court deems just and appropriate.

Respectfully submitted,

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Dated: August 30, 2013

CERTIFICATE OF SERVICE

I, Collins J. Seitz, Jr., hereby certify that on August 30, 2013, I caused *Defendants Phillip Shaer and John Lindgren's Motion to Dismiss Cisco System, Inc.'s Second Supplemental and Amended Complaint* to be served via electronic mail upon the following individuals:

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